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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,724	10/03/2001	Marc Owerfeldt	SUNMP025	1256
25920	7590	02/07/2006	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			SWEARINGEN, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/970,724

Applicant(s)

OWERFELDT ET AL.

Examiner

Jeffrey R. Swearingen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This case has been assigned to a new Examiner.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 November 2005 has been entered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-7 are directed toward a transport protocol stack, which contains no hardware and is materially made of software. Claims 8-12 are directed toward a connector module which is a software object and contains no hardware. Claims 13-20 are directed toward a protocol stack, which is software and not hardware. Claims 1-20 are software, *per se*. Claims 1-20 have no tangible embodiments, and are therefore non-statutory.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the

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specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1-20 are for a connector module which converts types to other types. Page 14, lines 5-10 of the specification describe converting IP packets with UDP to ATM. Inadequate detail has been provided within the specification to enable one of ordinary skill in the art to implement the type conversion. No conversion methods have been detailed in the specification. The specification is silent as to what constitutes a "type" to be converted. One of ordinary skill in the art would be unable to implement a *transport-independent tasks module, wherein the transport-independent tasks module includes methods that are independent of a first underlying transport layer having a first type* as the specification failed to describe any methods present in the transport-independent tasks module. The connector module is never modified within the specification, and no modified connector module is described. No description of how methods are dependent or independent of a transport layer is given.

7. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The modified connector module and the modification of a connector module were not present in the original specification.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1, 8, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 8, and 13 state that the connector module can be modified. It is not clear if Applicant is claiming the module is modified or if the module is not modified.

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10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over RFC 1889 in view of Beckert et al. (U.S. Patent No. 6,175,789).

12. In regard to claim 1, RFC 1889 disclosed a transport-independent real-time transport protocol (RTP) stack (RFC 1889 section 1) comprising a transport-independent tasks module, wherein the transport-independent tasks module included methods that are independent of an underlying transport layer (section 1), and a connector module in communication with the transport-independent module, wherein the connector module included methods that are dependent on the underlying transport layer wherein the connector module could be modified so as to adapt the RTP stack to a second underlying transport layer having a different type, and further wherein the transport-independent tasks module was configured to communicate with a modified connector module in the same manner as the connector module. (section 10 and the translator of section 2)

13. In regard to claims 2 and 3, RFC 1889 disclosed the connector module included data input and output methods which were utilized by the transport-independent tasks module to communicate with the first underlying transport layer. (section 3, definitions of port, transport address, RTP session, Synchronization source, and contributing source; section 10).

14. In regard to claims 4 and 5, RFC 1889 disclosed the data input and output methods included an RTP input or output stream method that returned an RTP input or output stream to a calling method, respectively. (section 7.1, definitions of transport and mixer)

15. In regard to claims 6 and 7, RFC 1889 taught the data input and output methods included an RTCP input or output stream to a calling method. (section 6.2, paragraphs 1-4)

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16. In regard to claim 8, RFC 1889 taught an RTP output stream method that returned an RTP output stream to a calling method (section 7.1, definitions of translator and mixer); an RTP input stream method that returned an RTP input stream to a calling method (section 7.1, definitions of translator and mixer); a RTCP output stream method that returned a RTCP output stream to a calling method (section 6.2, paragraphs 1-4); and a RTCP input stream method that returned a RTCP input stream to a calling method (section 6.2, paragraphs 1-4), wherein the RTP connector module could be modified so as to adapt an RTP stack to underlying transport layers each having a different type. (section 2, translator).

17. In regard to claims 9-10, RFC 1889 taught the RTP connector module generated transport-independent input/output streams and provided access to a particular type of underlying transport layer. (section 3, definitions of port, transport address, RTP session, Synchronization source, and contributing source; section 10).

18. In regard to claims 11-12, RFC 1889 taught the RTP connector module was in communication with a transport-independent tasks module, wherein the transport-independent tasks module included methods that were independent of the underlying transport layer and processed the transport-independent input/output streams using transport-independent operations (section 3, definitions of port, transport address, RTP session, Synchronization source, and contributing source; section 10).

19. In regard to claim 13, RFC 1889 disclosed a transport-independent tasks module, wherein the transport-independent tasks module included methods that are independent of an underlying transport layer (section 1), and a connector module in communication with the transport-independent module, wherein the connector module included methods that are dependent on the underlying transport layer wherein the connector module could be modified so as to adapt the RTP stack to a second underlying transport layer having a different type, and further wherein the transport-independent tasks module was configured to communicate with a modified connector module in the same manner as the connector module. (section 10 and the translator of section 2)

20. In regard to claims 14 and 18, RFC 1889 disclosed the RTP output stream method returned a RTP input stream to the RTP receiver module (section 7.1, definitions of translator and mixer).

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21. In regard to claims 15 and 19, RFC 1889 taught the RTP input stream method returned an RTP input stream to the RTP receiver module (section 7.1).

22. In regard to claims 16-17, RFC 1889 taught a RTCP transmitter module and a RTCP receiver module which were independent of the first underlying transport layer. (section 1, section 6.2).

23. In regard to claim 20, RFC 1889 taught the connector module operated utilizing the second underlying transport without modifying the transport-independent tasks module (section 1, section 3, section 6.2, section 7.1, section 10).

24. It is well known in the art of software design when constructing an application to create modules, which are a portion of the program that perform a particular function, and it would have been obvious to one of ordinary skill in the art to create modules such as taught in Beckert to provide for easy interfacing with RFC 1889.

Response to Arguments

25. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

27. RTP (<http://www2.rad.com/networks/1996/iphone/rtp.htm>)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason Cardone
Supervisory Patent Examiner
Art Unit 2145